

REMARKS

Prior to the present submission, claims 1-32 were pending in the application. Claims 1-18, 23, 25, 26, 29, and 31 are presently under examination, with the remaining claims withdrawn from examination following restriction. By the present submission, withdrawn claims 19-22, 24, 27, 28, 30, and 32 are cancelled, and claims 1, 23, 25, 29, and 31 are amended.

No new matter is introduced by these amendments. Exemplary support for these amendments may be found in the specification as filed in paragraphs [0025], [0027], [0079], Example 1, and in Figs. 1, 2, 4, and 6. Notwithstanding the foregoing, Applicants expressly reserve the right to prosecute subject matter no longer or not yet claimed in one or more applications that may claim priority to the present application.

Reconsideration of the claimed invention is respectfully requested in view of the foregoing amendments and the following remarks.

1. REJECTION UNDER 35 U.S.C. §103(a)

The rejection of claims 1-18, 23, 25, 26, 29, and 31 under 35 U.S.C. §103(a) as allegedly being obvious over Suzuki *et al.*, U.S. Patent No. 5,972,348, in view of Ziolo and Lewis, U.S. Patent No. 4,264,648, is respectfully traversed.

The claims as amended herein refer to a method of identifying an object having a tag which encodes identification information for the object. The tag comprises:

- (i) a host material having a disordered plurality of pores on a surface thereof, where the host material is at least substantially non-magnetic, and
- (ii) a magnetic material positioned within at least some of the disordered plurality of pores after formation of those pores.

The claims also provide that a specific magnetic signal obtainable from the magnetic material of the tag provides identification information for the object which is representing the disorder of the plurality of pores.

The office action mailed April 17, 2008 referred to Fig. 17(A) and column 7, line 60-65, of Suzuki *et al.*, asserting that this “includes grooves, where the magnetic material is embedded.” Applicants note that this section of Suzuki *et al.* depicts a magnetic strip placed in an elongated

groove 82. There is no disordered plurality of pores on a surface of a host material depicted in this section of Suzuki *et al.*

Then, referring to column 7, lines 4-60, the present Office Action asserts that “to present orderly information, Suzuki uses patterns such as letters. These patterns clearly create a disorder in concentration of magnetic particles within the substrate.” The patterns to which the Office Action refers, however, do not relate to pores on the surface of a host material, as required by the present claims. The patterns of Suzuki *et al.* are variable thicknesses in the magnetic material itself. For example, column 7, lines 4-11, refers to Fig. 5. In this figure, the host material is feature 1a, which is not porous. The features are in feature 1b, the “magnetic coding layer.” Moreover, any variance in the thicknesses in the magnetic material is not disordered, but instead is precisely ordered into “patterns such as letters.” Identification information for the object on the tag does not represent the disorder of any plurality of pores, as recited in the present claims. Instead, whatever information may be recorded thereon is a function of ordering magnetic material into “designed patterns, letters or bar-code-type patterns.” Suzuki *et al.*, column 2, lines 31-34.

Likewise, the present Office Action refers to Fig. 23 and column 16, lines 1-53 of Suzuki *et al.* Again, the host material is feature 101, and is not porous. This “base material 101” receives a magnetic coding stripe. Suzuki *et al.*, column 16, lines 40-46. To record information on the coding stripe, “magnetic information is imputed on the transfer magnetic layer 111” through the use of ordinary magnetic recording means (Suzuki *et al.*, column 16, lines 1-5), and whatever information is recorded on the coding stripe is purely a function of that initial magnetic recording on layer 111. Suzuki *et al.*, column 16, lines 22-34. No identification information for an object is representing disorder in any plurality of pores of the host material of the tag, as required in the present claims.

As a secondary reference, the Office Action relies on Ziolo and Lewis for allegedly disclosing “using a plurality of disordered pores to embed magnetic material.” Ziolo and Lewis, however, relates to the use of magnetic particles to hold toner for electrostatic printing. It does not cure the flaw in the primary reference, as even if it is combined with Suzuki *et al.*, the combination still does not have identification information for an object on a tag that represents the disorder of a plurality of pores on the surface of a host material. At best, one might use the “magnetic particles” of Ziolo and Lewis to form the magnetic strips disclosed in Suzuki *et al.* In

such a case, whatever information is recorded on the coding stripe would still be present purely as a function of ordering magnetic material into designed patterns, letters or bar-code-type patterns and/or traditional magnetic recording schemes.

As noted in KSR Int'l Co. v. Teleflex Inc., 127 S.Ct. 1727, 1741 (2007), there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness of the invention as claimed. Even if combined as suggested in the Office Action, there is no rational basis provided to modify the teachings of the cited references in order to arrive at every element of the claimed invention. Applicants respectfully submit that the claimed invention is non-obvious and request that the rejection be reconsidered and withdrawn.

CONCLUSION

For the reasons set forth herein, Applicants respectfully submit that claims 1-20 are in condition for allowance. Applicants respectfully request that the Examiner reconsider and withdraw the grounds for rejection set forth in the Office Action.

If the Examiner would like to discuss any of the issues raised in the Office Action, Applicant's representative can be reached at (619) 203-3186.

Respectfully submitted,

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